

REMARKS

Claims 1-4, 6-10, 12-16 and 18-22 were pending in the present application. Claim 22 is cancelled and claims 1, 3, 6, 7, 13, 15 and 21 are amended. Accordingly, claims 1-4, 6-10, 12-16 and 18-21 are currently pending. No new matter has been added. Applicants respectfully request reconsideration of the claims in view of the following remarks.

At paragraphs 10-15, the Examiner rejects all of the claims under 35 U.S.C. § 112, first and second paragraphs for failing to comply with the written description requirement, and/or being indefinite.

More specifically, the Examiner states with respect to claims 1 and 13 that “there is no support in the specification for the data count to be accumulated at the SGSN and that this concept is considered new matter.” Applicants couldn’t disagree more and respectfully submit that the specification clearly includes support that a data count is accumulated at the SGSN. Specifically, lines 10-12, at page 12, state that “the GGSN 22 will accumulate data at a slower and lesser rate than the SGSN 20.” It is axiomatic, therefore, that the SGSN 20 must be accumulating data (i.e., a data count) if the GGSN is accumulating data at a rate slower than the GGSN 22. Also, lines 12-15, at page 12, state that “the SGSN 20 will not report that the volume limit threshold number of data bits has been reached to SCP30 until instructed ..., no matter what *its own count of the data bits*”. Also see page 14, lines 2-6, i.e., “... the data count for GGSN 22 will be lower than the data count for SGSN 20 ...” and “consequently rather than simply sending *the data count from SGSN 20...*” It is submitted that these statements are irrefutable support that the SGSN does accumulate the data count. Consequently, it is clear that “the concept of the

data [count] being “accumulated” at the SGSN” is fully supported, and cannot reasonably be considered new matter.

Claims 6 and 7 were also rejected under 35 U.S.C. § 112, first and second paragraph. However, both claims 6 and 7 have been amended so that they are substantially identical to the original claims 6 and 7, except claim 6 has been further clarified that the billable data accumulates at the GGSN. In addition, after the period at the end of the first paragraph on page 3 and at page 14, line 19, the specification has also been amended to include the content of the original claim 7. Of course, since the original claim 7 was part of the original application, the added information cannot be considered new matter. With respect to paragraph 14 of the rejection, the simple typographical error has been corrected. That is “second change rate” has been corrected to the obvious --charge rate--, and with respect to paragraph 15 of the Office Action, the rejection of the dependent claims 2-4, 6-10, 12-16 and 18-22 should also be withdrawn since the parent claims were not properly rejected under 35 U.S.C. § 112.

With respect to paragraphs 3-7 in the “Response to Arguments” section of the Office Action, it is believed that in light of the Amendments to the claims and the following discussion, these issues are now moot. More specifically, the examiner opined that the use of the word “if” meant that the step of transmitting and accumulating billing did not always occur. Applicants do not believe this position is relevant since it is clear that the claims are intended to cover those instances “if” and “when” the volume limit threshold is reached. Note it is believed that the specification makes it clear that the volume limit threshold is not reached with every communication (See page 13, lines 7-23 of the specification). In any event, to facilitate prosecution of the application toward allowance, the word “if” has been replaced with the word -when--.

The typographical error “change” has been corrected to --charge-- and claims 1 and 13 have been further clarified to state that the GGSN *only* accumulates the second type of data, which is billable data. However, it should also be understood that the first type of data is billed at the first charge rate that is typically at no or zero cost to the subscriber. This is very specifically claimed by dependent claim 21.

The Examiner also states that, contrary to Applicants’ assertion, the Haumont, (U.S. Patent Publication No. 2003/0027554 hereinafter “Haumont”) reference only teaches “a total, or combined threshold”, and that the amendment [Abstract?] teaches that there are “two charges that occur. There are changes that increase before the maximum billable value is met [and] after [that] the servers are free of charge. Thus only the billable data is calculated until the value is reached.” Applicants agree with the Examiner’s statement but strongly disagree with the Examiner’s conclusions that the statement is relevant to the allowability of the claim. More specifically, the reference is referring to first services offered by a first server that only includes free services, and second services offered by a second server that includes chargeable services. The reference is not referring to accumulating and charging for different type of *data bits* at a server, only that there are two servers and that there is a charge only for one of the servers.

In any event, as stated above, it is believed that as a result of the claim amendments, paragraphs 3-7 are now moot regardless of the interpretation of the Haumont reference with respect to the “services” issues discussed in the previous paragraph.

Claims 1, 3-5, 8-9, 12-17, 21 and 22 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Haumont in view of Alloune, *et al*, (U.S. Patent No. 6,615,034 hereinafter “Alloune”) in further view of Cushnie (Evolution of Charging and Billing Models for GSM and

Future Mobile Internet Services, hereinafter “Cushnie”) and in further view of Kari, *et al.*, (U.S. Patent No. 6,480,485 hereinafter “Kari”). Applicants respectfully disagree.

More specifically with respect to the Haumont reference, the Examiner acknowledges that Haumont does not teach only accumulating a billable count of only the second type of data at the GGSN. In addition, it is submitted that there is no teaching whatsoever in Haumont that *both* the first type of data and the second type of data are accumulated at the SGSN. It is arguable that the second (or billable) type is accumulated, according to the Haumont reference, but not both the first and second type. Also, there is no teaching that the data count is transmitted *from the GGSN* of Haumont to an SGSN. Instead, the reference discloses transmitting from the SCP to a SGSN.

With respect to the Alloune reference there is disclosed a generalized communication billing or business system. However, Alloune does not even disclose, much less teach, in any way whatsoever, the unique detailed method of the present invention as is evidenced by the fact that the examiner could not cite any particular part of the reference that taught the claim requirement of “accumulating a billable data count only at the GGSN that only comprises the second type of data that is billed at the second (billable) charge rate.” Thus, the Examiner cannot point to, much less cite, anywhere in the Alloune reference that discloses the very information that the Examiner acknowledges is not disclosed in the primary Haumont reference. It is submitted this is because there is no such disclosure in Alloune. Consequently, the Examiner simply cited the complete Alloune reference starting at the summary and ending at the claims. This may be an acceptable way to apply a 102 reference, however, it does not meet the MPEP requirement for citing a secondary reference (i.e., Alloune) that is used to show a specific teaching in a 103(a) rejection that was admitted as not being present in the primary reference (i.e., Haumont). Applicants respectfully request the Examiner to specifically show where the

claim element “accumulating only a billable data count at said GGSN comprising said second type of data that is billed at said second charge rate...” is taught in the Alloune reference.

With respect to the Cushnie and Kari references, it is also clear that as has been discussed, that although the four cited references, including Cushnie and Kari, may be related to the invention, there is simply no reasonable combination of these references that teaches the unique combination of interrelationships of the method elements and the necessary system components to make claim 1 obvious.

At page 9 of the Office Action, the Examiner further acknowledges that Haumont does not teach all of the relationships between the nodes, but attempts to overcome this admitted shortcoming by stating that it was old at the time for nodes within a computer to do multiple function. Applicants do not have a disagreement with the Examiners statement, but fails to see the relevance, since to perform the multi-functions the computer had to be properly controlled, directed or programmed. It is the unique interrelationship and how the nodes are controlled that is claimed as a method. Perhaps the Examiner’s argument would have merit if Applicants were claiming structure or apparatus. However, this is not the case; Applicants are claiming a method.

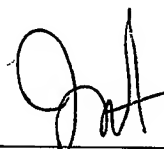
Therefore, it is respectfully submitted that independent claim 1 and dependent claim 13 do patentably define over all of the references of record whether considered singly or in combination and that the claims are in condition for allowance.

The remaining dependent claims in the application are also believed to be allowable for depending from an allowed claim, as well as for their own limitations.

In view of the above, Applicants submit that the claims are in condition for allowance. No new matter has been added by this amendment. If the Examiner should have any questions, please contact Applicants' Attorney, Ira S. Matsil, at 972-732-1001. The Commissioner is hereby authorized to charge any fees due in connection with this filing, or credit any overpayment, to Deposit Account No. 50-1065.

Respectfully submitted,

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Date



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